

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

H & M FARMS, INC.,	)	
	)	
Plaintiff,	)	8:12CV101
	)	
v.	)	
	)	
CARGILL, INCORPORATED, and	)	<b>MEMORANDUM</b>
LEON VANDEN BERGE,	)	<b>AND ORDER</b>
	)	
Defendants.	)	
_____	)	

This matter is before the court on the findings and recommendation filed by Magistrate Judge F.A. Gossett on May 30, 2012 (filing [15](#)).<sup>1</sup> Judge Gossett recommends that the plaintiff's motion to remand (filing [6](#)) be granted and that this action be remanded to state court.

Defendant Cargill has filed a statement of objections to the recommendation that the case be remanded (filing [16](#)), and the plaintiff has filed a responsive brief to Cargill's objections. The matter is now ripe for decision under [28 U.S.C. § 636\(b\)\(1\)](#).

I find and conclude after de novo review, and after giving careful consideration to the parties' written arguments, that Judge Gossett has correctly found the facts and applied the law in recommending that this matter be remanded to state court due to the lack of complete diversity between the parties. Accordingly, Judge Gossett's findings and recommendation will be adopted.

IT IS ORDERED:

1. The magistrate judge's findings and recommendation (filing [15](#)) is adopted.

---

<sup>1</sup>This case was reassigned to the undersigned United States district judge on June 21, 2012. (Filing [20](#).)

2. The statement of objections filed by defendant Cargill, Incorporated, (filing [16](#)) is denied.
3. The plaintiff's motion to remand (filing [6](#)) is granted, and this case is remanded to the District Court of Howard County, Nebraska, for lack of diversity jurisdiction.
4. The Clerk of the United States District Court for the District of Nebraska shall mail a certified copy of this order to the District Court of Howard County, Nebraska, and may take any other action necessary to effectuate the remand.
5. Because the court did not consider additional evidentiary materials in resolving the objection to the magistrate judge's findings and recommendation, the plaintiff's motion for leave to submit evidence (filing [18](#)) is denied as moot.
6. The motion to dismiss (filing [4](#)) filed by defendant Cargill, Incorporated, is denied as moot.
7. Final judgment will be entered by separate document.

DATED this 12<sup>th</sup> day of July, 2012.

BY THE COURT:

*Richard G. Kopf*

Senior United States District Judge

---

\*This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.